

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	Case No.: 1:07 CR 232-01
)	
Plaintiff)	JUDGE SOLOMON OLIVER, JR.
)	
v.)	
)	
DAVID B. SMITH,)	<u>ORDER ACCEPTING PLEA</u>
)	<u>AGREEMENT, JUDGMENT AND</u>
)	<u>REFERRAL TO U. S. PROBATION</u>
Defendant)	<u>OFFICE</u>

This case is before the Court on a Report and Recommendation filed by United States Magistrate Judge Nancy A. Vecchiarelli, regarding the change of plea hearing of , which was referred to the Magistrate Judge with the consent of the parties.

On April 24, 2007, the government filed a seven count indictment, charging Defendant, David B. Smith, with Conspiracy to Distribute and Possess with Intent to Distribute Cocaine in violation of Title 21 United States Code, Section 846; and Distribution of Cocaine in violation of Title 21 United States Code, Section 841(a)(1) & (b)(1)(C). On May 8, 2007, Defendant Smith was arraigned and entered a plea of not guilty before Magistrate Judge Kenneth S. McHargh. On February 22, 2008, Magistrate Judge Nancy A. Vecchiarelli received Defendant Smith's plea of guilty to counts 1 and 7 of the indictment and issued a Report and Recommendation ("R&R")

concerning whether the plea should be accepted and a finding of guilty entered.

Neither party submitted objections to the Magistrate Judge's R&R in the ten days after it was issued.

On de novo review of the record, the Magistrate Judge's R&R is adopted. Defendant Smith is found to be competent to enter a plea and to understand his constitutional rights. He is aware of the charges and of the consequences of entering a plea. There is an adequate factual basis for the plea. The Court finds the plea was entered knowingly, intelligently, and voluntarily. The plea agreement is approved.

Therefore, Defendant Smith is adjudged guilty of Counts 1 and 7 of the indictment, in violation of Title 21 United States Code, Section 846; Title 21 United States Code, Section 841(a)(1) & (b)(1)(B). This matter is referred to the U. S. Probation Department for the completion of a pre-sentence investigation and report. Sentencing will be on May 28, 2008, at 10:00 a.m. in Courtroom 17-A, Carl B. Stokes United States Court House, 801 West Superior Avenue, Cleveland, Ohio.

IT IS SO ORDERED.

/s/SOLOMON OLIVER, JR.
UNITED STATES DISTRICT JUDGE